

Conference Engrossed

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**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 245

SENATE BILL 1134

AN ACT

AMENDING SECTIONS 26-102, 26-152, 26-158 AND 26-181, ARIZONA REVISED
STATUTES; RELATING TO THE NATIONAL GUARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 26-102, Arizona Revised Statutes, is amended to
3 read:

4 26-102. Powers and duties of the adjutant general

5 A. The adjutant general shall serve as head of the department. The
6 governor as commander in chief shall administer and control the national
7 guard, and the adjutant general is responsible to the governor for execution
8 of all orders relating to the militia, organization, activation,
9 reactivation, inactivation and allocation of units, recruiting of personnel,
10 public relations and discipline and training of the national guard and those
11 members of the militia inducted into the service of this state as provided in
12 this chapter. The adjutant general shall act as military chief of staff to
13 the governor and chief of all branches of the militia. The adjutant general
14 may belong to the national association and other organizations for the
15 betterment of the national guard, subscribe to and obtain periodicals,
16 literature and magazines of such other organizations and pay dues and charges
17 from monies of this state appropriated for that purpose. Except for the
18 authority expressly reserved for the governor, the adjutant general is
19 responsible for emergency management, and all emergency activities are
20 subject to the approval of the adjutant general.

21 B. The adjutant general, as the military chief of staff, shall:

22 1. Act as military advisor to the governor and perform, as the
23 governor prescribes, military duties not otherwise designated by law.

24 2. Adopt methods of administration for the national guard that are not
25 inconsistent with laws and regulations of the United States department of
26 defense or any subdivision of the United States department of defense.

27 3. Supervise and direct the organization, regulation, instruction and
28 other activities of the national guard.

29 4. Attest and record all commissions issued by the governor and
30 maintain a register of all commissioned personnel.

31 5. Keep a record of all orders and regulations pertaining to the
32 national guard and all other writings and papers relating to reports and
33 returns of units comprising the national guard and militia.

34 6. Superintend the preparation of returns, plans and estimates
35 required by this state, by the department of the army, air force or navy and
36 by the secretary of defense.

37 7. Control the use of and care for, preserve and maintain all military
38 property belonging to or issued to this state and pay from monies
39 appropriated by the legislature for these purposes the necessary expenses for
40 labor and material incurred in the repair of military property.

41 8. Dispose of unserviceable military property belonging to this state,
42 account for the proceeds and transmit them to the morale, welfare and
43 recreational fund established by section 26-153.

- 1 9. Authenticate with the seal of the office of the adjutant general
2 all orders and copies of orders issued by the adjutant general's office. An
3 authenticated copy has the same force and effect as the original.
- 4 10. Present to the governor before each regular session of the
5 legislature, or as otherwise required, an estimate of the financial
6 requirements for state monies for operation of the department and the
7 national guard during the next fiscal year.
- 8 C. The adjutant general, as head of the department, shall:
9 1. Be the administrator of the department.
- 10 2. Coordinate the functions of the divisions and offices of the
11 department.
- 12 3. Appoint, suspend, demote, promote or dismiss employees of the
13 department who are subject to title 41, chapter 4, article 5 and employees
14 who are exempt from state personnel administration. The adjutant general may
15 delegate this authority.
- 16 4. Appoint an auditor for the department to conduct periodic financial
17 and compliance audits of each division and office in the department and
18 perform such other duties as prescribed by law. At least annually the
19 auditor shall audit accounts that are open for more than twelve months. The
20 auditor shall determine within the department compliance with purchase and
21 bidding procedures prescribed by law.
- 22 5. Adopt, with the approval of the governor, rules necessary for the
23 operation of the department.
- 24 6. Establish and administer accounts for federal, state or other
25 monies made available to carry out the functions of the department.
- 26 7. As deemed necessary, appoint to peace officer status members of the
27 Arizona national guard who have been awarded a United States army military
28 occupational specialty as military policeman or a United States air force
29 specialty code as security policeman. Before appointment as peace officers,
30 such individuals must successfully complete a course of study to be
31 prescribed by the Arizona peace officer standards and training board.
32 Individuals appointed as peace officers pursuant to this section, when
33 performing duties at facilities or on land operated or controlled by or under
34 the jurisdiction of the adjutant general, have all the powers, privileges and
35 immunities of peace officers provided by law. Individuals appointed as peace
36 officers pursuant to this section are not eligible to participate in funding
37 provided by the peace officers' training fund established by section 41-1825
38 or in the public safety personnel retirement system.
- 39 8. Establish, abolish or reorganize the positions or organizational
40 structure within the department, subject to legislative appropriation, if, in
41 the adjutant general's judgment, the modification would make the operation of
42 the department more efficient, effective or economical.
- 43 9. Establish an educational program for persons who have previously
44 dropped out of high school and who are under twenty years of age but who are
45 not adjudicated delinquent. The educational program shall be designated

1 "project challenge", and the program shall be conducted by the national guard
2 of Arizona in a paramilitary environment. The goal of the educational
3 program is to provide persons enrolled in the program with the knowledge and
4 skills necessary to become productive citizens and to obtain a general
5 equivalency diploma. In addition to monies appropriated for the program, the
6 adjutant general may accept and spend monies from any other lawful public or
7 private source.

8 10. Submit to the governor, THE PRESIDENT OF THE SENATE AND THE SPEAKER
9 OF THE HOUSE OF REPRESENTATIVES annually by ~~October~~ SEPTEMBER 1 a report for
10 the department FOR THE PRECEDING FISCAL YEAR including:

- 11 (a) The strength and condition of the national guard. ~~---~~
- 12 (b) The business transactions of the department. ~~---~~
- 13 (c) A detailed statement of expenditures for all military and civilian
14 purposes. and
- 15 (d) The disposition of all military and civilian property on hand or
16 issued.
- 17 (e) A DESCRIPTION OF THE ACTIVITY IN THE CAMP NAVAJO FUND ESTABLISHED
18 BY SECTION 26-152.

19 (f) A DETAILED STATEMENT OF THE NATIONAL GUARD POSTSECONDARY EDUCATION
20 REIMBURSEMENT PROGRAM PURSUANT TO SECTION 26-181, SUBSECTION D.

21 D. The adjutant general, with the approval of the governor, may:

22 1. Enter into contracts with individuals, this state, political
23 subdivisions of this state or the federal government and its agencies for the
24 purchase, acquisition, rental or lease of lands, buildings or military
25 materiel and take title in the name of this state for the establishment and
26 maintenance of armories, subject to legislative appropriation for these
27 purposes.

28 2. Procure and contract for procurement of equipment and its issuance
29 to members of the militia inducted into the service of this state.

30 3. Enter into agreements and plans with the state universities,
31 community colleges or any educational institution supported by federal or
32 state monies for promotion of the best interests of the national guard and
33 military training of students of the institutions.

34 4. Lease property acquired under this chapter for any public purpose
35 for a period of one year that is renewable.

36 5. Convey for any public purpose in the name of this state easements
37 on real property acquired under this chapter.

38 6. Enter into contracts or agreements with the federal government that
39 are deemed to be in the best interest of this state and the national guard.

40 7. Delegate the powers and duties in this section.

41 8. Adopt methods of security for the national guard reservations or
42 facilities that are consistent with the laws, regulations or directives of
43 the United States department of defense or any subdivision of the United
44 States department of defense and the laws of this state.

1 Sec. 2. Section 26-152, Arizona Revised Statutes, is amended to read:
2 26-152. National guard fund; camp Navajo fund

3 A. The national guard fund is established consisting of monies
4 appropriated to the national guard.

5 B. The fund may be drawn upon by the adjutant general for any purpose
6 commensurate with the purpose and mission of the national guard.

7 C. The amount of the national guard fund appropriated for capital
8 outlay or improvements shall be exempt from the provisions of section 35-190
9 relating to lapsing appropriations.

10 D. All proceeds from the rental or use of armories received by the
11 general staff pursuant to the authority of section 26-115, subsection E shall
12 be deposited, pursuant to sections 35-146 and 35-147, in a separate account
13 in the national guard fund, and the monies are continuously appropriated to
14 the department for the maintenance of armories. Monies in the account are
15 exempt from the provisions of section 35-190 relating to lapsing of
16 appropriations, except that any monies remaining in the account for one
17 hundred eighty days after the end of the fiscal year in which they were
18 received revert to the state general fund.

19 E. A camp Navajo fund is established for the operation, maintenance,
20 capital improvements and personal services necessary for the national guard
21 to operate a regional training site and storage facility at Bellemont. The
22 fund consists of monies received from storage of commodities and services
23 provided as approved by the adjutant general. The adjutant general shall
24 administer the fund. On notice from the adjutant general, the state
25 treasurer shall invest and divest monies in the fund as provided by section
26 35-313, and monies earned from investment shall be credited to the
27 fund. Monies in the fund are continuously appropriated to the national guard
28 and are exempt from the provisions of section 35-190 relating to lapsing of
29 appropriations.

30 ~~F. The adjutant general shall annually submit a report by August 31 to~~
31 ~~the governor, the speaker of the house of representatives, the president of~~
32 ~~the senate and the joint legislative budget committee describing the activity~~
33 ~~in the camp Navajo fund during the previous fiscal year.~~

34 Sec. 3. Section 26-158, Arizona Revised Statutes, is amended to read:
35 26-158. State active duty; employment benefits; travel
36 allowances

37 A. NOTWITHSTANDING SECTION 38-671, SUBSECTION A, OFFICERS AND ENLISTED
38 PERSONNEL OF THE ARIZONA NATIONAL GUARD WHILE ON STATE ACTIVE DUTY EXCEEDING
39 THIRTY CONSECUTIVE DAYS BY ORDER OF THE GOVERNOR OR ADJUTANT GENERAL SHALL BE
40 CONSIDERED EMPLOYEES OF THIS STATE AND, SUBJECT TO APPROPRIATION, ARE
41 ELIGIBLE FOR HEALTH AND ACCIDENT INSURANCE BENEFITS, INCLUDING DEPENDENTS,
42 PURSUANT TO SECTION 38-651. ON COMPLETING STATE ACTIVE DUTY ORDERS, A MEMBER
43 OF THE ARIZONA NATIONAL GUARD, INCLUDING DEPENDENTS, MAY NOT CONTINUE TO
44 RECEIVE BENEFITS PRESCRIBED IN THIS SECTION.

1 B. Members of the national guard traveling AT ANY TIME under official
2 orders on business of the state shall be reimbursed for the cost of travel,
3 expenses for lodging and meals as provided for state employees. The expense
4 shall be paid from amounts appropriated for travel by the national guard.

5 Sec. 4. Section 26-181, Arizona Revised Statutes, is amended to read:
6 26-181. Evaluation of application; payment

7 A. Subsequent to submission of grade reports, the adjutant general
8 shall evaluate the applications for reimbursement and make payment to those
9 applicants ~~he~~ THE ADJUTANT GENERAL determines to be eligible.

10 B. Such reimbursement is subject to legislative appropriation and
11 shall not exceed:

12 1. The maximum amount charged for in-state tuition and fees at a state
13 university during that academic year.

14 2. The amount expended by the national guardsman for in-state tuition
15 and fees.

16 C. Such reimbursement payment shall be made within forty-five days
17 from the date of receipt of the applicant's grade reports for the semester
18 for which reimbursement is to be paid.

19 ~~D. By September 15, The adjutant general shall annually issue a~~
20 ~~written report to the president of the senate, the speaker of the house of~~
21 ~~representatives and the governor that contains~~ REPORT the following
22 information AS PROVIDED BY SECTION 26-102, SUBSECTION C, PARAGRAPH 10:

23 1. The total number of national guardsmen that received reimbursement
24 payments pursuant to this section during the preceding fiscal year.

25 2. The number of newly recruited national guardsmen that received
26 reimbursement payments pursuant to this section during the preceding fiscal
27 year.

28 3. The total amount of monies expended by the national guard for
29 reimbursement payments pursuant to this section during the preceding fiscal
30 year.

APPROVED BY THE GOVERNOR APRIL 26, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2011.

Passed the House April 12, 20 11,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate February 10, 20 11,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

Charmian B. Bickel
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1134

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 20, 20 11,
by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 19, 20 11,
by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor
this 20 day of April, 20 11,
at 12:00 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 26th day of
April, 20 11,

at 10:58 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 26th day of April, 20 11,

at 2:55 o'clock P. M.

[Signature]
Secretary of State

S.B. 1134